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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,884	01/05/2001	Christoph Lodde	44815/251563	4102

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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

6N

<b>Office Action Summary</b>	Application N 09/755,884	Applicant(s) LODDE, CHRISTOPH	
	Examiner Victor S Chang	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_                      6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

First, the Examiner would like to point out that in claims 1, 5, 8, and 9, the claimed elements are severely limited by use of the closed language "consists of", and the Examiner questions if this is the intent of the Applicant, i.e., to form the claims with three specific limitations.

In claim 3, the phrase "reinforced by air and/or water jets" is vague and indefinite. It is not clear whether the nonwoven is reinforced by the process of utilizing air and/or water jets, or by the air and/or water jets, per se.

In claim 4, change the term "g'm<sup>2</sup>" to --g/m<sup>2</sup>--.

Claims 5 and 6 should each be written in proper Markush claim format.

In claim 7, the presence of two ranges makes the claim vague and indefinite.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mamish (US 5227225).

Mamish's patent is directed to methods for preparing masking tapes by coating a thin layer of a polyolefinic material onto a lightweight nonwoven cloth and then applying a layer of adhesive, preferably a hot melt adhesive onto the opposed surface of the nonwoven cloth (Applicant's claim 1) (Abstract). Mamish teaches that the nonwoven is not present as a discrete layer. Rather, the coated polyolefinic backing layer will both coat the surface of the cloth and invade its interstices, so that the nonwoven cloth may be said to be "embedded" in the backing layer as well as being mechanically bonded (Applicant's claims 1-3) (column 1, lines 56-61). The nonwoven cloth to be employed will preferably be any of the synthetic nonwovens heretofore known in the art. Suitable synthetic fibers include the rayons, polyesters, etc. (claims 5, 8, and 9) (column 3, lines 14-17). As is known, the fibers may first be carded to orient them primarily in the machine direction. The carded fibers may then be subjected to scrambling, after which they may be chemically or thermally bonded, or hydroentangled to produce the nonwoven fabric, all in per se known manner in the art (Applicant's claims 2-3) (column 3, lines 17-23). Mamish also teaches that the adhesives may be any of those heretofore employed in the art for preparing masking tapes (Applicant's claim 6) (column 3, lines 30-32). Regarding the specific basis weight of the nonwoven (Applicant's claim 1), the Examiner takes Official notice that the lightweight nonwoven

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cloth feature is believed to be either inherently disclosed, or an obvious selection to one of ordinary skill, particularly in view of the skilled artisan being motivated by the desire to provide a nonwoven based adhesive tape with improved tensile strength. With respect to those dependent claims not previously analyzed: the range of the basis weight of impregnated thermoplastic resin (claim 4), and the adhesives employed and their basis weights (claims 6-9), in the absence of unexpected results, they are each believed to be either inherent or an obvious optimization. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In addition, the following references are cited of interest for making textile based adhesive tape:

US 2415276 to Buckley et al.

US 4632859 to Wolfrey et al.

US 4636427 to Ohno et al.

US 4997693 to Sonoh et al.

US 5306319 to Krishnan et al.

US 5316834 to Matsuda et al.

US 5985775 to Deeb et al.

US 6103061 to Anderson et al.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC  
VSC  
May 1, 2002

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1800-

1700

*Daniel Zinker*